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7 Attorneys for Plaintiff  
8 FREECYCLESUNNYVALE,

9 **UNITED STATES DISTRICT COURT**

10 **NORTHERN DISTRICT**

11 **OAKLAND DIVISION**

12  
13 FREECYCLESUNNYVALE,  
a California unincorporated association,

14 Plaintiff,

15 v.

16 THE FREECYCLE NETWORK,  
an Arizona corporation,

17 Defendant.

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21 THE FREECYCLE NETWORK, INC., an  
Arizona Corporation,

22 Counterclaimant,

23 v.

24 FREECYCLESUNNYVALE, a California  
unincorporated association,

25 Counterdefendant.

26 Case No. C06-00324 CW

27 **[PROPOSED] ORDER DISMISSING  
COUNTERCLAIMANT THE  
FREECYCLE NETWORK, INC.'S  
COUNTERCLAIMS UNDER  
FED.R.CIV.P. 12(b)(6) AND STRIKING  
THE STATE-LAW COUNTERCLAIM  
UNDER CAL. CODE. CIV. PROC. §  
425.16**

28 Date: June 9, 2006  
Time: 1:30 p.m.  
Before: Hon. Claudia Wilken  
Location: Courtroom 2

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[PROPOSED] ORDER DISMISSING/STRIKING COUNTERCLAIMS  
CASE NO. C06-00324 CW

1 On June 9, 2006, Plaintiff and Counterdefendant FreecycleSunnyvale's Motion to Dismiss  
2 Counterclaims under Fed.R.civ.P. 12(b)(6) and Motion to Strike State-Law Counterclaim under  
3 Cal.Code.Civ.Proc § 425.16 came on for hearing before this Court. Having considered all papers  
4 filed in support of and in opposition to Plaintiff and Counterdefendant's Motions, and good  
5 cause appearing, the COURT GRANTS the Motions.

6 IT IS HEREBY ORDERED THAT:

- 7 (1) Defendant and Counterclaimant The Freecycle Network, Inc.'s  
8 counterclaim for infringement under § 32(1) of the Lanham Act is dismissed with  
9 prejudice;
- 10 (2) Defendant and Counterclaimant The Freecycle Network, Inc.'s  
11 counterclaim for contributory trademark infringement under § 43(a) of the  
12 Lanham Act is dismissed;
- 13 (3) Defendant and Counterclaimant The Freecycle Network, Inc.'s  
14 counterclaim for unfair competition under § 43(a) of the Lanham Act is  
15 dismissed;
- 16 (4) Defendant and Counterclaimant The Freecycle Network, Inc.'s  
17 counterclaim for unfair competition under Cal. Bus. & Prof. Code §§ 17200 and  
18 17500 is dismissed; and
- 19 (5) Defendant and Counterclaimant The Freecycle Network, Inc.'s  
20 state-law counterclaim for unfair competition is stricken or, in the alternative,  
21 Defendant and Counterclaimant The Freecycle Network, Inc., must demonstrate a  
22 probability of prevailing under Cal. Civ. Proc. Code § 425.16.

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24 Dated: \_\_\_\_\_

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26 \_\_\_\_\_  
27 Honorable Claudia Wilken  
28 United States District Court Judge  
Northern District of California

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NOTICE OF MOTION AND MOTION TO DISMISS COUNTERCLAIMS  
CASE NO. C06-00324 CW